

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

WILLIAM IRVING, Register No. 182906,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 04-4309-CV-C-SOW
	)	
DAVE DORMIRE, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On October 12, 2006, the United States Magistrate Judge recommended that plaintiff's motion to dismiss his unexhausted claims be granted and plaintiff be granted leave to file a second amended complaint containing only those claims exhausted prior to filing suit; that defendants' motion to dismiss be granted, in part, and denied, in part; that defendants' motion to dismiss plaintiff's unexhausted claims, identified as paragraphs 31, 32, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of plaintiff's amended complaint be granted, and plaintiff's unexhausted claims be dismissed, without prejudice, pursuant to 42 U.S.C. § 1997e; and that defendants' motion to dismiss plaintiff's claims in his amended complaint which were exhausted prior to filing suit be denied. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's Report and Recommendation of October 12, 2006, is adopted [201]. It is further

ORDERED that plaintiff's motion to dismiss his unexhausted claims is granted and plaintiff is granted leave to file a second amended complaint containing only those claims exhausted prior to filing suit [196]. It is further

ORDERED that defendants' motion to dismiss is granted, in part, and denied, in part [191]. It is further

ORDERED that defendants' motion to dismiss plaintiff's unexhausted claims, identified as paragraphs 31, 32, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of plaintiff's amended complaint is granted, and plaintiff's unexhausted claims are dismissed, without prejudice, pursuant to 42 U.S.C. § 1997e. It is further

ORDERED that defendants' motion to dismiss plaintiff's claims in his amended complaint which were exhausted prior to filing suit is denied [191].

/s/Scott O. Wright  
SCOTT O. WRIGHT  
Senior United States District Judge

Dated: November 20, 2006